

August 1, 2019

Via ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Notice of Ex Parte, In the Matter of Updating the
Intercarrier Compensation Regime to Eliminate Access
Arbitrage, WC Docket No. 18-155**

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Dear Ms. Dortch:

These *ex parte* comments are filed on behalf of Competitive Local Exchange Carriers (“CLECs”) BTC, Inc. d/b/a Western Iowa Networks, Goldfield Access Network, Great Lakes Communication Corporation, Northern Valley Communications, LLC, OmniTel Communications, and Louisa Communications in response to the *ex parte* letter submitted in the Access Stimulation NPRM Docket¹ by Comcast Corporation (“Comcast”).²

Comcast’s *ex parte* letter asserts that the Commission must adopt the “prong one” proposal³ in the Access Stimulation NPRM because the “prong two” proposal⁴ “would neither lower [IXCs’] per-minute termination costs below the tariffed charges of the [local exchange] carriers nor help to deter access arbitrage schemes.”⁵ In support of its assertions, Comcast provides redacted cost estimates it received relating to two hypothetical interconnection arrangements that it would have to choose between in the event “prong two” is adopted, each of which, the carrier claims, would require it to pay a transport rate that is “substantially higher” than the tariffed rates currently charged by access-stimulating CLECs.⁶

¹ *In re Updating the Intercarrier Comp. Regime to Eliminate Access Arbitrage*, WC Docket No. 18-155.

² Letter from B. Choroser, Vice President – Regulatory Affairs, Comcast Corp., to M. Dortch, Secretary, FCC, WC Docket No. 18-155 (July 17, 2019) (“Comcast *Ex Parte*”).

³ The “prong one” proposal would require “access stimulating LECs to bear the financial responsibility for the delivery of terminating traffic to their end office.” *In re Updating the Intercarrier Comp. Regime to Eliminate Access Arbitrage*, Notice of Proposed Rulemaking, WC Docket No. 18-155, at 4 ¶ 9 (June 5, 2018) (“Access Stimulation NPRM”).

⁴ The “prong two” proposal would require access-stimulating LECs to “accept direct connections from either the IXC or an intermediate access provider of the IXC’s choice.” *Id.*

⁵ Comcast *Ex Parte* at 4.

⁶ See *id.* at 3 (comparing current tariffed rates for tandem switching and tandem switched transport services as provided by access-stimulating CLECs with the implicit per-minute cost of having a third party provide transport



While Comcast believes its *ex parte* advances the arguments raised by other “prong one” proponents, in reality, it supports the CLEC’s argument that no further regulatory intervention is warranted based on evidence that accurately reflects the tremendous impact and cost savings produced by the Commission’s reforms in the *Connect America Fund Order*.⁷ Comcast’s evidence supports the conclusion that those reforms, adopted in 2011 and implemented over a period of several years, reduced the access charges associated with access stimulation so as to ensure that the rates are just and reasonable. In fact, when the access-stimulating CLECs provide these services below the costs long-distance carriers would incur if they provided their own service, there can be no serious debate that the Commission’s reforms have produced textbook examples of just and reasonable rates. Moreover, other than conclusorily noting that the Commission’s adoption of the “prong one” proposal would produce cost savings for Comcast, the carrier fails to offer any explanation of how the Commission could adopt the “prong one” proposal without producing an unjust, unreasonable, and discriminatory outcome for the access-stimulating CLECs and their rural customers.⁸

The CLECs have introduced substantial evidence, including two expert reports,⁹ establishing that the access stimulation regime, as currently structured, is efficient and creates positive benefits by bringing traffic to rural areas and creating cost efficiencies that, among other things, allow rural communities to benefit from broadband deployment in areas that larger carriers are unwilling or unable to serve. The evidence submitted by Comcast supports the conclusion that these efficiencies cannot be replicated if each long-distance carrier disaggregates its traffic in favor of direct interconnection, which would leave existing investment stranded and ultimately cost consumers more to engineer and install duplicative facilities.

The Commission should retain the access stimulation rules that are already in place and close this Docket.

Respectfully submitted,

G. David Carter

cc: Lynne Engledow

between Comcast’s point of presence and an access-stimulating CLEC’s end office and noting that the “per-minute cost of purchasing capacity is **substantially higher** than the tariffed per-minute charges of the [access-stimulating] carriers”) (emphasis added); *id.* at 4 (comparing current tariffed rates for tandem switching and tandem switched transport services as provided by access-stimulating CLECs with the cost of constructing its own fiber link and noting that the costs associated would be “**substantially higher**” than if Comcast simply continued to pay the access-stimulating CLECs’ tariffed rates) (emphasis added).

⁷ *In re Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663 ¶ 34 (2011) (“*Connect America Fund Order*”).

⁸ See Comments of Competitive Local Exchange Carriers, WC Docket No. 18-155, at 51-56 (July 20, 2018); Letter from D. Carter, Counsel, CLECs, to M. Dortch, Secretary, FCC, WC Docket No. 18-155, at 3-4 (Jan. 30, 2019).

⁹ See Expert Report of Oliver Grawe, Ph.D., in Response to the Notice of Proposed Rulemaking Entitled “Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage”, WC Docket No. 18-155 (July 20, 2018); Expert Report of Daniel E. Ingberman, WC Docket No. 18-155 (Aug. 24, 2018).